

Each agency is required to file an Auditor Statement unless it received a written waiver from the FTA. The criteria in either Condition I or Condition II for granting a financial data waiver are:

Condition I. The reporting agency (1) has adopted the Industry Uniform System of Accounts and Records (USOA) and (2) has previously submitted a Section 15 report that was compiled using the USOA and was reviewed by an independent auditor; or

Condition II. The reporting agency (1) uses an internal accounting system other than the accounting system prescribed by the USOA, (2) uses the accrual basis of accounting, (3) directly translates the system and accounting categories, using a clear audit trail, to the accounting treatment and categories specified by the USOA, and (4) has previously submitted a Section 15 report that was compiled using the same internal accounting system and translation to the USOA and was reviewed by an independent auditor.

For agencies that have received a waiver, the CEO annual Certification must verify that the financial data meet one of the above two conditions.

Additionally, all reporting agencies that are in or serve urbanized areas with populations of 200,000 or more and whose report covers 100 or more vehicles in annual maximum service across all modes and types of service must have an independent auditor review all section 15 data used in the section 9 formula allocation. The statement should discuss, by mode and type of service: directional route miles, vehicle revenue miles, passenger miles, and operating cost, and include both directly operated and purchased service. The independent, certified public accountant shall perform the verification in accordance with the "Statements on Standards for Attestation Engagements" issued by the American Institute of Certified Public Accountants. The specific procedures to be reviewed are described in the most recent Section 15 Reporting Manual.

PART 633—PROJECT MANAGEMENT OVERSIGHT

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AUTHORITY: 49 U.S.C. 1601 et. seq., 1619.

SOURCE: 54 FR 36711, Sept. 1, 1989, unless otherwise noted.

Subpart A—General Provisions

§ 633.1 Purpose.

This part implements section 324 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Pub. L. 100-17), which added section 23 to the FT Act. The part provides for a two-part program for major capital projects receiving assistance from the agency. First, subpart B discusses project management oversight, designed primarily to aid FTA in its role of ensuring successful implementation of federally-funded projects. Second, subpart C discusses the project management plan (PMP) required of all major capital projects. The PMP is designed to enhance the recipient's planning and implementation efforts and to assist FTA's grant application analysis efforts.

§ 633.3 Scope.

This rule applies to a recipient of Federal financial assistance undertaking a major capital project using funds made available under:

(a) Sections 3, 9, or 18 of the Federal Mass Transit Act of 1964, as amended;

(b) 23 U.S.C. 103(e)(4); or

(c) Section 14(b) of the National Capital Transportation Amendments of 1979 (93 Stat. 1320, Pub. L. 96-184).

§ 633.5 Definitions.

As used in this part:

Administrator means the Administrator of the Federal Transit Administration or the Administrator's designee.

Days means calendar days.

Fixed guideway means any public transportation facility which utilizes and occupies a separate right-of-way or

rails. This includes, but is not limited to, rapid rail, light rail, commuter rail, automated guideway transit, people movers, and exclusive facilities for buses and other high occupancy vehicles.

Full funding agreement means a written agreement between FTA and a recipient that establishes a financial ceiling with respect to the Government's participation in a project; sets forth the scope of a project; and sets forth the mutual understanding, terms, and conditions relating to the construction and management of a project.

Major capital project means a project that:

- (1) Involves the construction of a new fixed guideway or extension of an existing fixed guideway;
- (2) Involves the rehabilitation or modernization of an existing fixed guideway with a total project cost in excess of \$100 million; or
- (3) The Administrator determines is a major capital project because the project management oversight program will benefit specifically the agency or the recipient. Typically, this means a project that:
 - (i) Generally is expected to have a total project cost in excess of \$100 million or more to construct;
 - (ii) Is not exclusively for the routine acquisition, maintenance, or rehabilitation of vehicles or other rolling stock;
 - (iii) Involves new technology;
 - (iv) Is of a unique nature for the recipient; or
 - (v) Involves a recipient whose past experience indicates to the agency the appropriateness of the extension of this program.

Project management oversight means the monitoring of a major capital project's progress to determine whether a project is on time, within budget, in conformance with design criteria, constructed to approved plans and specifications and is efficiently and effectively implemented.

Project management plan means a written document prepared by a recipient that explicitly defines all tasks necessary to implement a major capital project.

Recipient means a direct recipient of Federal financial assistance from FTA.

FT Act means the Federal Mass Transit Act of 1964, as amended.

FTA means the Federal Transit Administration.

Subpart B—Project Management Oversight Services

§ 633.11 Covered projects.

The Administrator may contract for project management oversight services when the following two conditions apply:

- (a) The recipient is using funds made available under section 3, 9, or 18 of the Federal Mass Transit Act of 1964, as amended; 23 U.S.C. 103(e)(4); or section 14(b) of the National Capital Transportation Amendments of 1979; and
- (b) The project is a "major capital project".

§ 633.13 Initiation of PMO services.

PMO services will be initiated as soon as it is practicable, once the agency determines this part applies. In most cases, this means that PMO will begin during the preliminary engineering phase of the project. However, consistent with other provisions in this part, the Administrator may determine that a project is a "major capital project" at any point during its implementation. Should this occur, PMO will begin as soon as practicable after this agency determination.

§ 633.15 Access to information.

A recipient of FTA funds for a major capital project shall provide the Administrator and the PMO contractor chosen under this part access to its records and construction sites, as reasonably may be required.

§ 633.17 PMO contractor eligibility.

- (a) Any person or entity may provide project management oversight services in connection with a major capital project, with the following exceptions:
 - (1) An entity may not provide PMO services for its own project; and
 - (2) An entity may not provide PMO services for a project if there exists a conflict of interest.
- (b) In choosing private sector persons or entities to provide project management oversight services, FTA uses the

procurement requirements in the government-wide procurement regulations, found at 48 CFR CH I.

§ 633.19 Financing the PMO program.

(a) FTA is authorized to expend up to ½ of 1 percent of the funds made available each fiscal year under sections 3, 9, or 18 of the FT Act, 23 U.S.C. 103(e)(4), or section 14(b) of the National Capital Transportation Amendments of 1979 (93 Stat. 1320) to contract with any person or entity to provide a project management oversight service in connection with a major capital project as defined in this part.

(b) A contract entered into between FTA and a person or entity for project management oversight services under this part will provide for the payment by FTA of 100 percent of the cost of carrying out the contract.

Subpart C—Project Management Plans

§ 633.21 Basic requirement.

(a) If a project meets the definition of major capital project, the recipient shall submit a project management plan prepared in accordance with § 633.25 of this part, as a condition of Federal financial assistance. As a general rule, the PMP must be submitted during the grant review process and is part of FTA's grant application review. This section applies if:

(1) The project fails under one of the automatic major capital investment project categories (§ 633.5(1) or (2) of this part); or

(2) FTA makes a determination that a project is a major capital project, consistent with the definition of major capital project in § 633.5. This determination normally will be made during the grant review process. However, FTA may make such determination after grant approval.

(b)(i) FTA will notify the recipient when it must submit the PMP. Normally, FTA will notify the recipient sometime during the grant review process. If FTA determines the project is major under its discretionary authority after the grant has been approved, FTA will inform the recipient of its determination as soon as possible.

(2) Once FTA has notified the recipient that it must submit a plan, the recipient will have a minimum of 90 days to submit the plan.

§ 633.23 FTA review of PMP.

Within 60 days of receipt of a project management plan, the Administrator will notify the recipient that:

- (a) The plan is approved;
- (b) The plan is disapproved, including the reasons for the disapproval;
- (c) The plan will require modification, as specified, before approval; or
- (d) The Administrator has not yet completed review of the plan, and state when it will be reviewed.

§ 633.25 Contents of a project management plan.

At a minimum, a recipient's project management plan shall include—

- (a) A description of adequate recipient staff organization, complete with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;
- (b) A budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and such miscellaneous costs as the recipient may be prepared to justify;
- (c) A construction schedule;
- (d) A document control procedure and recordkeeping system;
- (e) A change order procedure which includes a documented, systematic approach to the handling of construction change orders;
- (f) A description of organizational structures, management skills, and staffing levels required throughout the construction phase;
- (g) Quality control and quality assurance programs which define functions, procedures, and responsibilities for construction and for system installation and integration of system components;
- (h) Material testing policies and procedures;
- (i) Plan for internal reporting requirements including cost and schedule control procedures; and

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(j) Criteria and procedures to be used for testing the operational system or its major components;

§ 633.27 Implementation of a project management plan.

(a) Upon approval of a project management plan by the Administrator the recipient shall begin implementing the plan.

(b) If a recipient must modify an approved project management plan, the recipient shall submit the proposed changes to the Administrator along with an explanation of the need for the changes.

(c) A recipient shall submit periodic updates of the project management plan to the Administrator. Such updates shall include, but not be limited to:

- (1) Project budget;
 - (2) Project schedule;
 - (3) Financing, both capital and operating;
 - (4) Ridership estimates, including operating plan; and
 - (5) Where applicable, the status of local efforts to enhance ridership when estimates are contingent, in part, upon the success of such efforts.
- (d) A recipient shall submit current data on a major capital project's budget and schedule to the Administrator on a monthly basis.

§ 633.29 PMP waivers.

A waiver will be considered upon initiation by the grantee or by the agency itself. The Administrator may, on a case-by-case basis, waive:

- (a) Any of the PMP elements in § 633.25 of this part if the Administrator determines the element is not necessary for a particular plan; or
- (b) The requirement of having a new project management plan submitted for a major capital project if a recipient seeks to manage the major capital project under a previously-approved project management plan.

PART 639—CAPITAL LEASES

Subpart A—General

Sec.

- 639.1 General overview of part.
639.3 Purpose of this part.
639.5 Scope of this part.

49 CFR Ch. VI (10–1–98 Edition)

639.7 Definitions.

Subpart B—Requirements

- 639.11 Lease qualification requirements.
639.13 Eligible types of leases.
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639.17 Eligible lease costs.
639.19 Other Federal requirements.

Subpart C—Cost-Effectiveness

- 639.21 Determination of cost-effectiveness.
639.23 Calculation of purchase or construction cost.
639.25 Calculation of lease cost.
639.27 Minimum criteria.

Subpart D—Lease Management

- 639.31 Early lease termination or modification.
639.33 Management of leased assets.

AUTHORITY: 49 U.S.C. 5307; 49 CFR 1.51.

SOURCE: 56 FR 51794, Oct. 15, 1991, unless otherwise noted.

Subpart A—General

§ 639.1 General overview of part.

This part contains the requirements to qualify for capital assistance when leasing facilities or equipment under section 9 of the FT Act. The regulation is set out in four subparts, with this subpart A containing general information on scope and definitions. Subpart B contains the principal requirements of the part, including eligibility requirements, the self-certification system used, and identification of the various forms of leases and grants that are eligible under the program. Subpart B also contains a section on other Federal requirements that may apply. Subpart C includes the actual calculations that each recipient should undertake before certifying that a lease is cost-effective. Finally, subpart D contains requirements on early lease termination and project management in general.

§ 639.3 Purpose of this part.

This rule implements section 308 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Pub. L. 100-17). Section 308 amended section 9(j) of the FT Act to allow section 9 recipients to use capital funds to finance the leasing of facilities and